

GLACIER BAY NATIONAL PARK BOUNDARY ADJUSTMENT
ACT OF 1996

SEPTEMBER 25, 1996.—Ordered to be printed

Mr. YOUNG of Alaska, from the Committee on Resources,
submitted the following

REPORT

[To accompany H.R. 2561]

[Including cost estimate of the Congressional Budget Office]

The Committee on Resources, to whom was referred the bill (H.R. 2561) to provide for an exchange of lands located near Gustavus, Alaska, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Glacier Bay National Park Boundary Adjustment Act of 1996”.

SEC. 2. LAND EXCHANGE AND WILDERNESS DESIGNATION.

(a) IN GENERAL.—(1) Subject to conditions set forth in subsection (c), if the State of Alaska, in a manner consistent with this Act, offers to transfer to the United States the lands identified in paragraph (2) in exchange for the lands identified in paragraph (3), the Secretary of the Interior (hereinafter referred to in this Act as the “Secretary”) shall complete such exchange no later than 6 months, absent extraordinary circumstances, after the issuance of a license to Gustavus Electric Company by the Federal Energy Regulatory Commission (FERC), in accordance with section 4 of this Act. This land exchange shall be subject to the laws applicable to exchanges involving lands managed by the Secretary as part of the National Park System in Alaska.

(2) The lands to be conveyed to the United States by the State of Alaska shall be determined by mutual agreement of the Secretary and the State of Alaska. Lands to be considered for conveyance to the United States are: (A) conveyed or approved Native allotments in Glacier Bay that would be included in a 3-way exchange among the United States, State of Alaska, and individual allotment owners; (B) lands owned by the State of Alaska in the Chilkoot Trail Unit of Klondike Gold Rush National Historical Park; and (C) other lands owned by the State of Alaska in or adjacent to a National Park System Unit in Alaska.

(3) The lands to be conveyed to the State of Alaska by the United States are those lands to be designated by the Secretary and the State of Alaska, consistent with sound land management principles, based on those lands determined by FERC, in accordance with section 3(b), to be the minimum amount of land necessary for the construction and operation of a hydroelectric project pursuant to 18 CFR Part 4.

(b) WILDERNESS.—To ensure that this transaction maintains the same amount of area of designated wilderness as currently exists, the following lands and waters in Alaska shall be designated as wilderness in the priority listed, pursuant to the Wilderness Act (16 U.S.C. 1131–1136), upon consummation of the land exchange authorized by this Act:

(1) The conveyed or approved Native allotments in Glacier Bay that are included in the 3-way land exchange among the United States, State of Alaska, and individual allotment owners, if such exchange occurs pursuant to subsection (a)(2).

(2) An unnamed island in Glacier Bay National Park lying southeasterly of Blue Mouse Cove in section 5, 6, 7, and 8, T. 36 S., R. 54 E., CRM, and shown on USGS quadrangle Mt. Fairweather (D–2), Alaska, containing approximately 789 acres.

(3) Cenotaph Island of Glacier Bay National Park lying within Lituya Bay in section 23, 24, 25, and 26, T. 37 S., R. 47 E., CRM, and shown on USGS quadrangle Mt. Fairweather (C–5), Alaska, containing approximately 280 acres.

The specific boundaries and acreage of these wilderness designations will be reasonably adjusted to equal, in sum, the total wilderness acreage deleted from Glacier Bay National Park and Preserve pursuant to the land exchange authorized by this Act.

(c) CONDITIONS.—Any exchange of lands pursuant to this Act shall occur only if—

(1) following the submission of an acceptable license application, FERC has conducted economic and environmental analyses under the authority of the Federal Power Act (FPA) (16 U.S.C. 791–828) notwithstanding provisions of the Code of Federal Regulations or such Act that might otherwise exempt a project of this type from economic analyses; the National Environmental Policy Act (NEPA) (16 U.S.C. 4321–4370), and the Fish and Wildlife Coordination Act (FWCA) (16 U.S.C. 661–666); which analyses conclude that the construction and operation of a hydroelectric power project on the lands described in section 3(b)—

(A) will not adversely impact the purposes and values of Glacier Bay National Park and Preserve (as constituted after the consummation of the land exchange references in this section); and

(B) will comply with the requirements of the National Historic Preservation Act (NHPA) (16 U.S.C. 470–470w); and

(C) can be accomplished in an economically feasible manner;

(2) FERC held at least one public meeting in Gustavus, Alaska, allowing the citizens of Gustavus to express their views on the proposed project;

(3) FERC has determined the minimum amount of land necessary to construct and operate this hydroelectric power project;

(4) Gustavus Electric Company, has been granted a license by FERC that requires, inter alia, the licensee to submit an acceptable financing plan to FERC before project construction may commence, and FERC has approved such plan; and

(5) language has been placed in the deed relating to the land references in section 2(a)(3) that ensures that in the event the project is not built, or ceases operation, this land will be managed in a manner compatible with the values and purposes of Glacier Bay National Park and Preserve.

SEC. 3. ROLE OF FERC.

(a) LICENSE APPLICATION.—(1) The FERC licensing process shall apply to any application submitted by Gustavus Electric Company to FERC for the right to construct and operate a hydropower project on the lands referenced in subsection (b).

(2) The FERC is authorized to accept and consider an application if filed by Gustavus Electric Company for the construction and operation of a hydropower plant to be located on lands within the area described in subsection (b), notwithstanding section 3(2) of the Federal Power Act (16 U.S.C. 796(2)). Such application must be submitted within 3 years from the date of enactment of this Act.

(b) ENVIRONMENTAL AND ECONOMIC ANALYSES.—(1) The lands to be the subject of the analyses referenced in section 2(c) are described as follows:

COPPER RIVER MERIDIAN

Township 39 South, Range 59 East, partially surveyed, Section 36 (unsurveyed), SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$. Containing approximately 130 acres.

Township 40 South, Range 59 East, partially surveyed, Section 1 (unsurveyed), NW $\frac{1}{4}$, SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, excluding U.S. Survey 944 and native allotment A-442; Section 2 (unsurveyed), fractional, that portion lying above the mean high tide line of Icy Passage, excluding U.S. Survey 944 and U.S. Survey 945; Section 11 (unsurveyed), fractional, that portion lying above the mean high tide line of Icy Passage, excluding U.S. Survey 944; Section 12 (unsurveyed), fractional, NW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, and those portions of NW $\frac{1}{4}$ and SW $\frac{1}{4}$ lying above the mean high tide line of Icy Passage, excluding U.S. Survey 944 and native allotment A-442. Containing approximately 930 acres. Aggregating approximately 960 acres.

(2) Additional lands and acreage will be included as needed in the study area described in subsection (b)(1) to account for accretion to these lands from natural forces.

(3) In consultation with the Secretary and the State of Alaska, FERC shall determine the minimum amount of lands necessary for the construction and operation of such project.

(4) The National Park Service shall participate as a joint lead agency in the development of any environmental document under the National Environmental Policy Act in the licensing of such a project. Such environmental document shall consider both the impacts resulting from licensing and any land exchange necessary to authorize such project.

(c) ISSUANCE OF LICENSE.—(1) A condition of the license to construct and operate any portion of the hydroelectric power project shall be the FERC's approval, prior to any commencement of construction, of a finance plan submitted by Gustavus Electric Company.

(2) The National Park Service, as the existing supervisor of potential project lands ultimately to be deleted from the Federal reservation in accordance with this Act, waives its right to impose mandatory conditions on such project lands pursuant to 16 U.S.C. 797(e) of the Federal Power Act.

(3) A condition of the license, or any succeeding license, to construct and operate any portion of the hydroelectric power project shall require the licensee to mitigate any adverse effects of the project on the purposes and values of Glacier Bay National Park and Preserve identified by the Secretary after the initial licensing. Additionally, the FERC shall not relicense the project unless it determines, with the Secretary's concurrence, that the project will not adversely impact the purposes and values of Glacier Bay National Park and Preserve (as constituted at the time of relicensing).

SEC. 4. ROLE OF SECRETARY OF THE INTERIOR.

(a) SPECIAL USE PERMIT.—Notwithstanding the provisions of the Wilderness Act (16 U.S.C. 1133), the Secretary shall issue a Special Use Permit to Gustavus Electric Company to ensure the completion of the analyses referred to in section 3 and to undertake activities that are necessary to complete this task. The Secretary may impose conditions in the permit as needed to protect the resources and values of Glacier Bay National Park and Preserve.

(b) PARK SYSTEM.—The lands acquired from the State of Alaska under this Act shall be added to and administered as part of the National Park System, subject to valid existing rights. Upon completion of the exchange of lands under this Act, the Secretary shall adjust, as necessary, the boundaries of the affected National Park System unit in Alaska to include the lands acquired from the State of Alaska; and adjust the boundary of Glacier Bay National Park and Preserve to exclude the lands transferred to the State of Alaska under this section.

(c) BOUNDARIES.—The Secretary shall make any necessary modifications or adjustments of boundaries of wilderness areas as a result of the additions and deletions caused by the land exchange referenced in section 2.

(d) PAYMENTS.—Gustavus Electric Company shall not be required to make Federal land use payments under section 10(e) of the Federal Power Act (16 U.S.C. 803(e)).

PURPOSE OF THE BILL

The purpose of H.R. 2561 is to provide for an exchange of lands located near Gustavus, Alaska.

BACKGROUND AND NEED FOR LEGISLATION

This bill would facilitate a land exchange between the State of Alaska and the National Park Service to facilitate the construction of a hydroelectric project on Fall Creek just outside the City of Gustavus, Alaska.

The City of Gustavus has worked tirelessly for the past 20 years to improve the local environment and to bring about savings to the community. The community desires to construct on Fall Creek an 800 kilowatt "run of the stream" mini hydroelectric project. The project would be used during peak flow periods to produce electricity as an alternative to current diesel production which presents air quality concerns and is much more expensive. This hydroelectric project has the support of the local community, the Alaska legislature and the Governor of the State of Alaska.

The project is forecast to cost \$2 million and would be financed with private funds. The project would save the National Park Service in excess of \$2 million from cost avoidance of electrical upgrades and about \$250,000 per year in reduced costs by relying on hydropower for most of the year. Similarly, Power Cost Equalization subsidies from the State of Alaska would be reduced by approximately \$250,000 a year.

Federal law prohibits the construction of hydroelectric projects within wilderness areas such as the Glacier Bay National Park and Preserve where the proposed hydroelectric project would be located. As introduced, H.R. 2561 would have provided for an acre-for-acre land exchange that will allow the project to be constructed: 960 acres of wilderness would be withdrawn from the Glacier Bay National Park and Preserve in exchange for 960 acres in the Dude Creek Critical Habitat area now managed by the State of Alaska. This would be a no net loss of park lands exchange. The Administration was opposed to the bill as introduced but supports the bill as reported.

COMMITTEE ACTION

H.R. 2561 was introduced on October 31, 1995, by Congressman Don Young (R-AK). The bill was referred to the Committee on Resources, which held a hearing on the bill on November 11, 1995. On September 18, 1996, the Committee met to consider H.R. 2561. Congressman Young offered an amendment in the nature of a substitute. The amendment was adopted by voice vote, and the bill, as amended, was ordered favorably reported to the House of Representatives by voice vote.

COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to the requirements of clause 2(1)(3) of rule XI of the Rules of the House of Representatives, and clause 2(b)(1) of rule X of the Rules of the House of Representatives, the Committee on Resources' oversight findings and recommendations are reflected in the body of this report.

INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that the enactment of

H.R. 2561 will have no significant inflationary impact on prices and costs in the operation of the national economy.

COST OF THE LEGISLATION

Clause 7(a) of rule XIII of the Rules of the House of Representatives requires an estimate and a comparison by the Committee of the costs which would be incurred in carrying out H.R. 2561. However, clause 7(d) of that Rule provides that this requirement does not apply when the Committee has included in its report a timely submitted cost estimate of the bill prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974.

COMPLIANCE WITH HOUSE RULE XI

1. With respect to the requirement of clause 2(l)(3)(B) of rule XI of the Rules of the House of Representatives and section 308(a) of the Congressional Budget Act of 1974, H.R. 2561 does not contain any new budget authority, credit authority, or an increase or decrease in revenues or tax expenditures.

2. With respect to the requirement of clause 2(l)(3)(D) of rule XI of the Rules of the House of Representatives, the Committee has received no report of oversight findings and recommendations from the Committee on Government Reform and Oversight on the subject of H.R. 2561.

3. With respect to the requirement of clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives and section 403 of the Congressional Budget Act of 1974, the Committee has received the following cost estimate for H.R. 2561 from the Director of the Congressional Budget Office.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, September 20, 1996.

Hon. DON YOUNG,
*Chairman, Committee on Resources,
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 2561, the Glacier Bay National Park Boundary Adjustment Act of 1996, as ordered reported by the House Committee on Resources on September 18, 1996. Enacting H.R. 2561 could affect direct spending; therefore, pay-as-you-go procedures would apply to the bill. However, CBO estimates that enacting the bill would have no significant effect on direct spending. We estimate that implementing the bill would increase discretionary spending, but that the increase would total less than \$50,000 over the 1997–2002 period, assuming appropriation of the necessary amounts.

H.R. 2561 would direct the Secretary of the Interior to convey sufficient federal land to the state of Alaska to allow the Gustavus Electric Company to construct and operate a hydroelectric power project. In return, the state of Alaska would convey land from the areas specified by the bill. The bill specifies that the lands acquired from Alaska be added to and administered as part of the Glacier

Bay National Park and Preserve. The bill also would direct the Secretary to adjust the boundaries of the park to reflect the land exchange. The land to be exchanged would be determined based on a study by the Federal Energy Regulatory Commission (FERC) of the minimum amount of land necessary to construct the hydroelectric power project. Based on information from the National Park Service and the Bureau of Land Management, CBO estimates that conveying the federal land identified for potential exchange with Alaska would not result in any loss of receipts to the U.S. Treasury.

Based on information from the National Park Service, we estimate that conducting the conveyances and adjusting the park boundaries would cost the National Park Service less than \$50,000, assuming appropriation of the necessary amounts. Any increase in annual costs to FERC for performing studies required by the bill or issuing a new hydroelectric license would be offset by annual fees the agency is required to charge the industries it regulates. Since FERC is required, under current law, to collect fees so as to offset the full amount of its annual appropriation, any additional work performed by the agency as a result of enacting this bill would have no net budgetary impact.

This bill would impose no private-sector or intergovernmental mandates as defined in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4) and would impose no costs on state, local, or tribal governments. The state of Alaska currently pays subsidies to individuals in the community of Gustavus to reduce their electric power cost. Should the land exchange authorized by this bill lead to the construction and operation of a hydroelectric power project, these costs would be reduced and the payments by the state would decrease.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contacts are Kim Cawley, Deborah Reis, and Victoria V. Heid (for federal costs), and Marjorie Miller (for the state and local impact).

Sincerely,

JUNE E. O'NEILL, *Director*.

COMPLIANCE WITH PUBLIC LAW 104-4

H.R. 2561 contains no unfunded mandates.

CHANGES IN EXISTING LAW

If enacted, H.R. 2561 would make no changes in existing law.

